



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2017-0573; FRL-9973-55-Region 9]

Approval of California Air Plan Revisions, Mojave Desert Air Quality Management

District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Mojave Desert Air Quality Management District (MDAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs) from marine and pleasure craft coating operations. We are approving a local rule that regulates these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on **[Insert date 30 days after the date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2017-0573. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the “**FOR**

FURTHER INFORMATION CONTACT” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Arnold Lazarus, EPA Region IX, (415) 972-3024, lazarus.arnold@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. Proposed Action

On November 17, 2017 (82 FR 54307), the EPA proposed to approve the following rule into the California SIP.

TABLE 1 - SUBMITTED RULE

Local Agency	Rule #	Rule Title	Amended	Submitted
MDAQMD	1106	Marine and Pleasure Craft Coating Operations	10/24/2016	02/24/2017

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received three comments stating, *inter alia*, that birds and bats are killed by wind and solar facilities, that federal agencies should address wildfire risks, and that California should regulate emissions from wildfires. These comments fail to identify any specific issue that is germane to our action on the Mojave Desert Marine and Pleasure Craft Coating Operations Rule.

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving this rule into the California SIP.

In addition, the EPA is fixing typographical errors in Title 40 of the Code of Federal Regulations, Section 52.220, subparagraph (c)(350)(i). On June 30, 2017, the EPA took final action to approve an updated version of Great Basin Unified Air Pollution Control District Rule 431 into the California SIP (82 FR 29762). In that action, we modified 40 CFR 52.220 by adding subparagraphs (c)(350)(i)(A)(3) and (c)(457)(i). Subparagraph (c)(350)(i)(A)(3) was inadvertently added following subparagraph (c)(350)(i)(B), when these two paragraphs should have been placed in the opposite order. In addition, subparagraph (c)(350)(i)(A)(3) contains the following text "Previously approved on October 31, 2007 in paragraph (c)(350)(i)(A)(1) of this section and now deleted with replacement in paragraph (c)(457)(i)(I)(2) of this section, Rule 431, adopted on December 7, 1990 and revised on December 4, 2006." The cross-reference to subparagraph (c)(457)(i)(I)(2) is in error and should instead refer to subparagraph (c)(457)(i)(I)(1). Accordingly, in addition to adding new text located in subparagraph

(c)(350)(i)(B)(3), we are re-ordering subparagraph (c)(350)(i) and correcting the cross-reference in subparagraph (c)(350)(i)(A)(3) to address these prior mistakes. These changes correct typographical errors, and do not substantively modify the regulatory text.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the MDAQMD rule described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 18, 2018.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

Authority 42 U.S.C. 7401 *et seq.*

Subpart F – California

2. Section 52.220 is amended by revising paragraphs (c)(350)(i)(A) and (B) and by adding paragraph (c)(498)(i)(B) to read as follows:

§ 52.220 Identification of plan - in part.

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(c) * * *

(350) * * *

(i) *Incorporation by reference.*

(A) Great Basin Unified Air Pollution Control District.

(1) Rule 431, adopted on December 7, 1990 and revised on December 4, 2006.

(2) Rule 401, “Fugitive Dust”, adopted on September 5, 1974 and amended on December 04, 2006.

(3) Previously approved on October 31, 2007 in paragraph (c)(350)(i)(A)(1) of this section and now deleted with replacement in paragraph (c)(457)(i)(I)(1) of this section, Rule 431, adopted on December 7, 1990 and revised on December 4, 2006.

(B) Mojave Desert Air Quality Management District.

(1) Rule 444, adopted on October 8, 1976 and amended on September 25, 2006.

(2) Rule 1106, Marine Coating Operations, adopted on August 28, 2006 and amended on October 23, 2006.

(3) Previously approved on July 16, 2008 in paragraph (c)(350)(i)(B)(2) of this section and now deleted with replacement in (c)(498)(i)(B)(1), Rule 1106, adopted on August 28, 2006 and amended on October 23, 2006.

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(498) * * *

(i) * * *

(B) Mojave Desert Air Quality Management District.

(1) Rule 1106, “Marine and Pleasure Craft Coating Operations,” amended on October 24, 2016.
[FR Doc. 2018-02669 Filed: 2/9/2018 8:45 am; Publication Date: 2/12/2018]